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# JOSEPH G. MARSHALL

BY

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## JOSEPH G. MARSHALL.

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Joseph G. Marshall was born in Fayette county, Ky., January 18, 1800. His early life was spent on the farm in the usual work incident to farm life. He was taught chiefly by his father, the Rev. Robert Marshall, of county Downs, Ireland, who was in the habit of teaching school a part of each year, mainly for the purpose of training his own children. Joseph continued with his father until he was prepared for the Junior class in college. He graduated at Transylvania University, Lexington, Ky., in 1823, at the time presided over by the distinguished Horace Holley, D. D., LL. D.

Of his college life I have a single pleasant incident, related to me by my friend the Hon. Henry S. Lane. One of the exercises assigned by Dr. Blythe, professor of rhetoric in the university, was a dissertation or sermon on some topic selected from Scripture. In the fulfillment of this duty Joseph and Samuel Marshall (afterward Rev. Sam Marshall, of Louisville), took texts and prepared their sermons. When presented to the instructor, Joseph was commended for his exposition and the faithfulness with which he adhered to his subject, but to Samuel the professor replied: "Very well, very well, Sammy, but any other text would have answered your purpose quite as well." He received his second degree, M. A., in 1826. In 1828 Mr. Marshall removed from Kentucky to Madison, in our state, and entered on the practice of his profession. The days of waiting for clients were



few. His career seems to have been successful from the beginning, and prosperity attended his earliest ministrations in the temple of justice. During his entire professional life in Madison, his practice was in all the state and federal courts in Indiana. The by no means partial testimony on personal grounds by Oliver H. Smith in his sketches is that Marshall "stood among the very first in the state. His great forte as an advocate was in the power with which he handled the facts before the jury. He seemed to forget himself in his subject, and at times I have thought him unsurpassed by any man I ever heard in impassioned eloquence. He had a large practice of heavy cases requiring all his forensic powers."

In personal appearance Mr. Marshall was large and fleshy, his hair of auburn color, his eyes hazel and penetrating. In any company of distinguished men he would be selected as one of the most prominent. When fully aroused his influence with a jury was unbounded. A single case related to me by Senator Lane will illustrate this. A tradesman on the Ohio started south with two flat boats of produce; one of these boats was lost on the falls at Louisville and the other fell into the hands of the city sharks. Meanwhile, during his absence, since misfortunes seldom come single, his wife and two children died, and the poor penniless trader returned to his home to find it desolate.

For a part of his produce the trader had executed his promissory notes and at maturity the owners brought suit to recover. Judge Dewey—the greatest intellect in Indiana—prosecuted the case and Marshall defended. The action being on a plain promissory note, Judge Dewey submitted the case without argument, but Marshall, with not a vestige of proof, so worked up the feelings of the jury and drew so touching a picture of the troubles of his client, that they passed for the defendant. Among all the exciting trials in the court history of Indiana, the Freeman case—1853—



stands most prominent. In the days when that infamous code of barbarity, the fugitive slave law, was in force, a free negro of Indianapolis, a respected citizen, whose only crime was his color, was arrested on the application of his alleged masters and was about to be forced into slavery. Never was the honest indignation of the people of Indianapolis so thoroughly aroused. The court room was crowded to excess. The able attorneys for the defense were the Hon. John Coburn, Lucien Barbour, and John Ketcham. The case progressed towards judgment and the court was summing up against the prisoner. In the crowded audience there was a lion apparently asleep. From the court came the utterance—"the presumption of slavery exists against the prisoner because of his color"—when with one bound and roar the aroused lion sent a shaking tremor to the marrow of the pale and trembling judge. Leaping forward regardless of the proprieties of courts and attorneys, Marshall demanded to be heard. "In what capacity do you appear in this case, not being an employed attorney?" "As a free American citizen, sir, to say to you that under the glorious constitution which we have sworn to support, there can be neither presumption nor fact of slavery." Then with a wild outburst of eloquence, never perhaps equaled in the practice in the state, he proceeded to plead the cause of the oppressed against the oppressors. Following this speech was a scene of the wildest confusion—rescue was hinted at and mob violence for a time threatened court and prosecutors, but milder counsels finally prevailed, and after months of delay and expense the victim was released from his prosecutors, but not until after the identical slave for whom Freeman was taken had been visited in Canada by the Hon. John Coburn and an attorney for the prosecution. The proper field for his political powers was national, and it was a great disgrace to the Whig party of Indiana that



he was not sent to the United States Senate. For this high nomination he received the caucus nomination of the party, but by the wily tricks of pretended friends, he was compelled to give place to the less gifted and more unscrupulous. Had he condescended to barter for the place, he could have secured it, but with the loss of self-respect to Marshall the so-called honor would have been empty indeed. He was the Whig candidate for governor in 1843, but failed of election, the state giving a Democratic majority that year in the choice of the Hon. James Whitcomb. He served a number of years in our state legislature, and was always recognized unquestioned as the leader of the party, shaping mostly its plans and directing its purposes. He exerted always the most decided influence in the Whig party, whether in or out of the office. In the brilliant campaign of 1840, Mr. Marshall was elected at large on the Whig ticket. He was then in the full prime of his life, with a physical frame of splendid proportions, in perfect health. The echoing tones of his profound and convincing eloquence yet linger in the memories of the Whigs of 1840. At Crawfordsville, Mr. Marshall met in a joint political discussion the silver-tongued Hannegan, but the beautiful periods and graceful gestures of the latter failed before the impetuous power displayed by Marshall, as he dwelt on the exploit of the hero of Tippecanoe. The older citizens of Madison retain a vivid recollection of the reception in their city of Daniel Webster, and the elegant welcome in their behalf by their own most honored citizen, and of the same expression of regard and respect made by Mr. Webster of the reputation and ability of Mr. Marshall. Mr. Marshall died at Louisville, Ky., April 8, 1855, in the residence of R. K. White. He had been afflicted with bronchitis for about five years, and the disease assumed the form of consumption a few months previous to his death. He left his home in Madison in March for the South, hoping that a



more genial climate would be of benefit to his health, but his strength was sufficient only to permit the trip down the Ohio to Louisville. Too ill to go farther, he remained there to die. The following are extracts from the Louisville papers at the time:

(Editorial in *Daily Democrat*, Louisville, Monday, April 9, 1855.)

Died, at the residence of Col. White in this city, yesterday morning, the Hon. Joseph G. Marshall, of Indiana. He was a native of Kentucky, the son of a distinguished Presbyterian clergyman, who will be remembered, perhaps, by many of our readers. Joseph G. Marshall was born in January, 1800, and has been cut off early in life's afternoon. His disease was consumption, but his demise, so sudden, was unexpected. He appeared better on Saturday morning, but a change for the worse soon terminated his life. The deceased chose our neighboring state of Indiana as his home and the law as his profession; and has left behind him few, if any, equals at the bar of his adopted state. He appeared but seldom in public life outside his profession, but that was not for lack of ability, or an exalted reputation. He was first in the school of politics to which he was honestly attached, and enjoyed the universal respect of his opponents. He was, in fact, a great man, and his character only shone with less luster from his unobtrusiveness and, perhaps, fastidious self-respect. His death will be felt as a public calamity by a large circle of acquaintances. Personally few stood higher or had more warm and devoted friends or fewer enemies. He was an ornament to his profession and in his employment never forgot his character as a man or citizen. He had a heart of warm and generous sympathies. A poor and friendless client found in him an advocate that would overlook a fee in the interests of his cause. He cherished a political faith different from our own, but we sincerely regret his loss, for the world has not many



of such to lose. He died in the faith of a Christian, surrounded by his afflicted and bereaved family.

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#### DEATH OF A GREAT MAN.

(Article in *Louisville Journal*, Monday, April 9, 1855.)

We deeply regret to announce the death of the Hon. Joseph G. Marshall, of Madison, Ind. He died at the house of Mr. R. K. White, on Broadway between Third and Fourth, whence his remains are to be taken to Madison at 10 o'clock this morning. He has been afflicted with bronchitis for about five years, and the disease, being much aggravated by a long speech which he made before the supreme court in February last, became consumption. He left home two or three weeks ago on his way to the South in the hope that his health might be benefited by a genial climate; but on his arrival in Louisville, he found himself too ill to go further and remained here to die.

In the death of Mr. Marshall, Indiana and the west have sustained a most serious loss. He was a good man and a great man. The purity of his heart was ever unstained, he discharged his duties in all the relations of life with fidelity and zeal, and the power of his intellect and vigor, and effectiveness of his eloquence as a lawyer and a statesman won the unbounded admiration of all who listened to him. The hearts of a whole people will throb with grief for the death of such a man.

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#### DEATH OF JOSEPH G. MARSHALL.

(Editorial in *Louisville Weekly Courier*, April 14, 1855.)

We announce this morning, with unfeigned regret, the decease of the Hon. Joseph G. Marshall, of Indiana. This distinguished gentleman died yesterday morning at the resi-



dence of Col. Robert K. White in this city, having arrived here on his way to the south, where he proposed spending some time for the benefit of his health. Mr. Marshall was a native of this state, having been born in Fayette county. He removed when young to Indiana and made Madison his place of residence, where he practiced his profession with great success. As a lawyer he was one of the most powerful advocates in the west; his abilities being very superior, both when addressed to the discussion of the most abstruse legal points, and in appealing to the sympathies of jurors. As a politician Mr. Marshall obtained no great degree of eminence, his unswerving devotion to Whig principles in a Democratic state having hindered his attaining those positions to which his eminent talent entitled him. He however occupied several stations of honor, and during last winter was a prominent candidate for United States senator.

The cause of Mr. Marshall's death was consumption, with which he had been suffering for some time. Its ravages had been stayed by Mr. Marshall having refrained of late from any active participation in the active duties of his profession. Recently he made a most powerful argument before the supreme court at Indianapolis, the excitement attending which completely prostrated his strength. Leaving home he reached Louisville en route for the south, and here at the home of an attentive friend died.

The remains of Mr. Marshall will be taken to Madison on the mail boat, from the residence of Col. Robert K. White, on Broadway near Third.

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#### TESTIMONIAL TO THE HON. JOSEPH G. MARSHALL.

(*Louisville Courier*, April 14, 1855.)

At a meeting of the Louisville bar held at the chancery court room, April 9th, 1855, the Hon. Henry Pirtle was



called to the chair and P. B. Muir was appointed secretary. On motion of Henry C. Wood, Esq., a committee of five was appointed to prepare and present resolutions expressive of the sense of the Louisville bar at the death of the Hon. J. G. Marshall. The chairman appointed on said committee H. C. Wood, Esq., Hon. W. P. Thompson, Hon. W. S. Bodley, Nathaniel Wolfe, Esq., and D. W. Wilson, Esq. The committee reported the following resolutions, which were unanimously adopted:

“WHEREAS, Death has come into our midst and removed from the scene of his labors the Hon. Joseph G. Marshall, an eminent citizen and member of the bar of the state of Indiana. He died in this city on the morning of April 8, 1855, in the fifty-sixth year of his age. The deceased was a native of Kentucky and was justly entitled to rank among the great men of the Union. He was a man of the largest capacity, of high professional attainments, and of wonderful powers as an orator. There was a force in his logic, and an energy and earnestness in his manner which, graced by his delightful voice, made him one of the most powerful and successful advocates of which the American bar could boast. He was, too, a distinguished politician, and in all walks of life beloved for the purity and uprightness of his character, the frankness and generosity of his nature. The members of the bar of the city of Louisville are desirous to testify the respect in which they hold his views, his talents, and his fame. Therefore,

“*Resolved*, That we have received the intelligence of the death of Joseph G. Marshall with emotions of deep sensibility, and we unite with our brethren in the profession in the state of Indiana in deploring his loss.

“*Resolved*, That the members of the bar of Louisville tender to the widow and family of the deceased their sympathy and condolence, and that, with the permission of the family, they will join as a body in the ceremonies of the funeral.



"*Resolved*, That we request the publication of the proceedings of this meeting in the papers of this city and the city of Madison."

On motion of Bland Ballard, Esq., the foregoing resolutions were directed to be entered on the record of the various courts of Louisville.

On motion the meeting adjourned.

H. PIRTLE, *Chairman*.

P. B. MUIR, *Secretary*.

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In the district court of the United States, Messrs. Oliver H. Smith, Samuel C. Wilson, Simon Yandes, Joseph A. Wright and James Raridan, all the worthy compeers of Marshall—and, whether living or dead, names most prominent and honored in our state history—were appointed by Justice McLean a committee on resolutions to express the esteem held by the bar of the character and ability of this one of their own number. In the appointment of the committee Justice McLean remarked: "At any bar in the Union Mr. Marshall's ability would have been marked and he would have been considered an antagonist to require the highest efforts." In the supreme court of Indiana the committee on resolutions appointed by Judge Perkins consisted of David McDonald, Thomas Nelson, R. W. Thompson, Jeremiah Sullivan, George Dunn, William T. Otto and Randall Crawford. The resolutions adopted contain the following tribute:

"We deem it due to the high character of Mr. Marshall as a man, and to the elevated distinction he had won by his great ability and eloquence as a member of the bar of Indiana, that we, who have been so long associated with him in private and professional life, should express the distinguished estimation in which we held him before his death, and our sincere regret that his brilliant career has been so soon terminated; therefore,



*“Resolved,* That as we recognized him in life as occupying a place in the front rank of our bar—as possessed of an intellect of the highest order, and of powers of oratory rarely excelled, so we regard his death as a serious and irreparable loss to us his professional associates, and to the state which he so long and faithfully served.”

These resolutions were, by order of the court, placed upon its records and the presiding officer, Judge Perkins, in language touching and beautiful, testified to the high intellectual character of the deceased.